

REMARKS

Upon entry of the amendment above, claims 1-22, 24-26, and 28-30 will be pending. By this Amendment, claims 1, 6, 7, 10, 11, 13, 22, 24, and 28-30 have been amended, and claim 23 has been cancelled.

No new matter has been added. 6, 7, 10, 11 and 13 have been amended to correct typographical errors and to make the claims more clear. Claim 24 has been amended to change dependency. Claims 1, 22, and 28 have been amended to recite that the catalytic layer is only present on the polymeric layer in an area along which the electrode is positioned. Support for the amendment can be found at, e.g., paragraphs 22 and 25 of the published application. Claim 29 has been added to incorporate subject matter of claim 23 as originally filed. Claim 30 has been amended to recite that the polymer layer extends over the electrode and allows electrical connection therethrough. Support can be found at, e.g., paragraph 30 of the published application.

Oath/Declaration

The oath or declaration has been deemed defective because it allegedly did not have the correct statement regarding the duty to disclose. The United States Patent & Trademark Office (USPTO) objected to the declaration filed with the present application. Specifically, the USPTO asserts that the declaration does not comply with 37 CFR §1.63 (a). Applicant asserts that the submitted declaration is in compliance with 37 CFR §1.63, as defined in 37 CFR §1.56. Specifically, the submitted declaration states that the inventors “acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56(a).” This language (as used in applicant’s declaration) was specified by the USPTO and was widely used prior to the 1992 amendment of 37 CFR 1.63(b).

The USPTO explicitly stated that the pre-1992 oaths comply with the now used language and would continue to be accepted by the Office. In its affirmation, the USPTO stated:

The averments in oath or declaration forms presently in use that comply with the previous § 1.63 or § 1.175 will also comply with the requirements of the new rules. Therefore, the Office will continue to accept the old oath or declaration forms as complying with the new rules.

See, 57 FR 2034 (emphasis added). Therefore, Applicant respectfully requests withdrawal of the objection to the declaration.

Drawings

The drawings were objected to because they allegedly did not show every feature of the specified in the claims. Specifically the Office Action stated that:

1. a polymeric layer over the coil electrode must be shown or cancelled from the claims;
2. a porous layer overlaying a layer of catalytic agent must be shown or cancelled from the claims; and
3. a plug having a layer of catalytic agent on an outer surface of the plug must be shown of the features cancelled from the claims.

With regard to item 3, Figures 7 and 8 show a plug **79, 89** having a layer of catalytic agent **36** on an outer surface of the plug **79, 89** is shown.

With regard to item 2, Applicants respectfully request clarification as to which claims recite a porous layer overlaying a catalytic agent.

With regard to item 1, new Figure 5B shows a polymeric layer over the coil electrode.

Specification

The specification has been amended in accordance with the addition of Figure 5B. No new matter has been added.

Claim Objections

Claims 6, 7, 1, 11, 13, and 22 have been objected to as containing typographical errors or awkward language. The claims have been amended to remove the typographical errors and to be more clear. Withdrawal of the objection is respectfully requested.

Written Description Rejection

Claims 13 and 23-24 have been rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants traverse the rejection to the extent that it is maintained.

With regard to claim 13, the Office Action states that the disclosure fails to support an embodiment of the device where the coil electrode includes an overlaying layer of polymeric layer. Support for claim 13 can be found at, e.g., paragraph 30 of the published application where it is stated that “layer **50** including a plurality of pores extends over a coil electrode...”

With regard to claim 23, the Office Action states that the disclosure fails to provide support for an embodiment where the lead comprises a coil electrode and where the coil electrode includes a porous side wall and a polymeric plug held within the porous side wall. Claim 24 is rejected as being dependent from claim 23. Claim 23 has been cancelled and the subject matter of claim 23 has been incorporated into claim 29, from which claim 24 now depends. Applicants assert that the subject matter for claim 29 is supported in at least claim 23 as originally filed.

Withdrawal of the objection is respectfully requested.

Obviousness Rejections

1. Laske in view of Batchelor

Claims 1-14, 19-22, 25, 28 and 30 have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Laske et al (U.S. 5,928,277), hereinafter "Laske", in view of Batchelor et al. (U.S. 2002/0115559), hereinafter "Batchelor". Applicants traverse the rejection to the extent it is maintained.

Independent claims 1, 22, and 28 have been amended to recite that the catalytic layer is only present on the polymeric layer in an area along which the electrode is positioned. Neither Laske nor Batchelor disclose such a device. Accordingly, the combined teachings of Laske and Batchelor do not teach or suggest a device as recited in claims 1, 22, and 28 or their dependent claims 2-12, 19-22, and 25.

Claim 30 has been amended to recite that the polymer layer extends over the electrode and allows electrical conduction therethrough. Neither Laske nor Batchelor disclose such a device. Accordingly, the combined teachings of Laske and Batchelor do not teach or suggest a device as recited in claim 30.

Withdrawal of the rejection is respectfully requested.

2. Laske in view of Batchelor in further view of Halperin

Claim 15 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Laske in view of Batchelor, in further view of Halperin et al. (U.S. 5,564,434), hereinafter "Halperin". Applicants traverse the rejection to the extent it is maintained.

Claim 15 depends from claim 1. As indicated above, the combined teachings of Laske and Batchelor fail to teach a device where the catalytic layer is only present on the polymeric layer in an area along which the electrode is positioned, as recited in claim 1. Halperin fails to overcome this deficiency. Accordingly, claim 15 is not obvious over Laske in view of Batchelor in further view of Halperin.

Withdrawal of the rejection is respectfully requested.

3. Laske in view of Batchelor in further view of Stokes '680.

Claims 16-18 and 23-24 have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Laske in view of Batchelor, in further view of Stokes (U.S. 4,506,680), hereinafter "Stokes '680". Applicants traverse the rejection to the extent it is maintained.

Claims 23-24 have been amended to depend from claim 29. Applicant assumes that the present rejection does not apply to claims 23 and 24, as amended.

Claims 16-18 depend from claim 1. As indicated above, the combined teachings of Laske and Batchelor fail to teach a device where the catalytic layer is only present on the polymeric layer in an area along which the electrode is positioned, as recited in claim 1. Stokes '680 fails to overcome this deficiency. Accordingly, claims 16-18 are not obvious over Laske in view of Batchelor in further view of Stokes '680.

Withdrawal of the rejection is respectfully requested

4. Laske in view of Batchelor in further view of Fearnot

Claim 26 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Laske in view of Batchelor, in further view of Fearnot et al. (U.S. 5,609,629), hereinafter "Fearnot". Applicants traverse the rejection to the extent it is maintained.

Claim 26 depends from claim 22. As indicated above, the combined teachings of Laske and Batchelor fail to teach a device where the catalytic layer is only present on the polymeric layer in an area along which the electrode is positioned, as recited in claim 22. Fearnot fails to overcome this deficiency. Accordingly, claim 26 is not obvious over Laske in view of Batchelor in further view of Fearnot.

Withdrawal of the rejection is respectfully requested.

5. Fearnot in view of Batchelor

Claim 29 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Fearnot in view of Batchelor. Applicants traverse the rejection to the extent it is maintained.

Claim 29 has been amended to recite a device comprising an electrode having a body including a sidewall having a plurality of pores and a plug held within the porous sidewall and including a layer of catalytic agent. Neither Fearnot nor Batchelor teach or suggest such a device. Accordingly the combination of Fearnot and Batchelor does not render claim 29 obvious.

Withdrawal of the rejection is respectfully requested.

6. Stokes '884 in view of Batchelor

Claim 30 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Stokes et al. (U.S. 5,282,844), hereinafter "Stokes '884", in view of Batchelor. Applicants traverse the rejection to the extent it is maintained.

Claim 30 has been amended to recite that the polymer layer extends over the electrode and allows electrical conduction therethrough. Neither Stokes '884 nor Batchelor disclose such a device. Accordingly, the combination of Stokes '884 and Batchelor does not teach or suggest a device as recited in claim 30, and thus do not render claim 30 obvious.

Withdrawal of the rejection is respectfully requested.

7. Borgersen in view of Batchelor

Claim 30 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Borgersen et al. (U.S. 2001/0018607), hereinafter "Borgersen", in view of Batchelor. Applicants traverse the rejection to the extent it is maintained.

Claim 30 has been amended to recite that the polymer layer extends over the electrode and allows electrical conduction therethrough. Neither Borgersen nor

Batchelor disclose such a device. Accordingly, the combination of Borgersen and Batchelor does not teach or suggest a device as recited in claim 30.

Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the foregoing amendments, Applicants respectfully request reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested.

The Examiner is respectfully requested to contact the undersigned by telephone at 651.259.6704 or by E-mail at kcampbell@cnwiplaw.com with any questions or comments.

Applicants reserve the right to present arguments to any aspect of any rejection not specifically addressed herein.

Respectfully submitted,

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Date

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